

REMARKS

Claims 1-16, 22-24, and 26-30 appear in the present application for the Examiner's review and consideration. The Office Action dated December 23, 2003 has been carefully considered. The specification has been amended to add the application number of the related application filed concurrently with the present application. Claims 1-21 and 31-33 were subject to the restriction requirement of September 23, 2003. Claims 1 and 13 have been amended to depend from claim 22 while claims 17-21 and 31-33 have been canceled. Claims 22 and 26 have been amended. Claim 25 has been canceled. No new matter has been added. The entire application is believed to be in condition for allowance and reconsideration is respectfully requested.

The Examiner has objected to informalities in claims 25 and 26. Claim 25 has been canceled and claim 26 claim has been amended according to the Examiner's suggestions as well as to change its dependency.

The Examiner has rejected claims 22-26, 29 and 30 pursuant to 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,648,889 B2 to Bramlet et al. This rejection is traversed.

Bramlet '889 discloses an intramedullary nail body 1 with a nail body bore 33, a sleeve 3 and a lag screw assembly 4. Sleeve 3 has a circular bore 38 and a small length of bore having oppositely disposed flats 17 at the leading end (*see* Figs. 11, 12, 13). These are sized for a sliding fit with the body 30 and flats 29 of lag screw assembly 4 (*see* Fig. 4), thus allowing axial translation of lag screw assembly 4 but not allowing relative rotation.

The sleeve 3 also contains two locking slots 9 (*see* Figs. 11, 14). These slots 9 are comprised of two features - flats 39 and anti-translation bosses 18. A sleeve lock 2 with sleeve locking tabs 10 (*see* Fig. 8) mates with sleeve slots 9 (*see* Fig. 5). With sleeve 3, sleeve lock 2 and lag screw 4 assembled within nail body 1 (as shown in Fig. 5), sleeve 3 is fixed in rotation by interaction of locking tabs 10 with sleeve flats 39 and fixed in translation by interaction of locking tabs 10 with sleeve anti-translation bosses 18, and thus sleeve 3 cannot move at all.

According to the specification of the Bramlet '889 patent, the "slotted sleeve [3] slidably passes through the transverse clearance bore of intramedullary nail and *freely telescopes over the lag screw assembly.*" (Col. 4, ll. 5-7; emphasis added.) Thus, the sleeve

lock 2 does not restrain the lag screw 4 in axial translation to any extent because the sleeve 3 “freely telescopes over the lag screw assembly.” This is confirmed by the specification which states that, “[s]ince sleeve 3 is now fixed in rotation, lag screw 4 is also fixed in rotation by the interaction of sleeve flats 17 and lag screw flats 29 but not fixed in translation.”

In contrast, independent claim 22 of the present application states that “the prong and second implant are configured and dimensioned to limit sliding of the second implant to a predetermined distance.” In addition, claim 22 requires that the prong have “a substantially flat engagement surface, the prong and implant engagement surfaces designed and configured to interact”

This is completely different from the Bramlet '889 patent which discloses sleeve locking tabs 10 that lock sleeve 3 into place, but does not restrain lag screw 4 from sliding out of the sleeve. Thus, any “prong” that may be found in Bramlet '889 does not function with a second implant to limit sliding of that second implant to a predetermined distance. And, sleeve 3 cannot be considered to be a second implant as it is not configured to slide. Accordingly, independent claim 22 and all of its dependent claims are allowable over Bramlet '889. Withdrawal of this rejection and allowance of claims 22 and its dependent claims are requested.

The Examiner has rejected claims 22, 23, 25, 26 and 30 pursuant to 35 U.S.C. § 102(b) as being anticipated by Fujiwara (Japanese Publication 09-066059). This rejection is traversed.

The Fujiwara Reference discloses an intramedullary nail 1 with a lag screw 4 that passes through the body of the nail at an oblique angle. A set screw 9 is screwed into the body of the nail 1 to engage a slot 4a formed on the surface of lag screw 4 and prevent the rotation of lag screw 4. A separate end plug 10 is screwed into the top of the nail 1 to close off the end of the nail.

In contrast, claim 22 as presently amended utilizes a body member including a prong having a substantially flat engagement surface, the prong and implant engagement surfaces designed and configured to interact to substantially prevent rotation of the second implant, and wherein the prong and second implant are configured to limit sliding of the second implant.

The Fujiwara Reference does not teach or disclose a prong with a substantially flat engagement surface that engages an implant with a substantially flat engagement surface

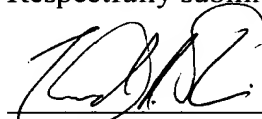
to prevent rotation. The Fujiwara Reference teaches only a commonly known set screw 9 that is used to restrain lag screw 4. In addition, if slot 4a of the lag screw 4 were not precisely aligned with set screw 9, the set screw would be unable to influence lag screw 4 to rotate into the properly aligned position. The set screw would simply engage the outer surface of lag screw 4, rather than fitting into slot 4a, and would not prevent rotation unless it was tightened so tightly that sliding would be completely prevented as well. Accordingly, claim 22 and all of its dependent claims are allowable over the Fujiwara Reference. Withdrawal of this rejection and allowance of claims 22 and its dependent claims is requested.

In accordance with the above noted amendments the entire application is believed to be in condition for allowance. Withdrawal of the Examiner's rejections and allowance of all pending claims are respectfully requested.

No fee is believed to be due for the claim amendments made in this response. Should any fees be required, however, please charge such fees to Jones Day deposit account No. 503013.

Respectfully submitted,

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